

**REMARKS/ARGUMENTS**

Claims 1-57 are pending in the above application.

The Office Action dated October 8, 2008, has been received and carefully reviewed. In that Office Action, claims 1-8, 12-38 and 42-57 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Rogers. Claims 9-11 and 39-41 were objected to as being dependent upon rejected base claims but were indicated to be allowable if amended to include the limitations of their base claims. It is believed that the pending claims patentably distinguish over the art of record, and reconsideration and allowance of claims 1-8, 12-38 and 42-57 is respectfully requested in view of the following remarks. Because all claims are believed to be allowable, the objected-to claims, claims 9-11 and 39-41, are not being rewritten in independent form at this time.

As an initial matter, it is noted that rejections under 35 U.S.C. 101 and 35 U.S.C. 112 were raised in the Office Action dated April 23, 2008. Applicant traversed these rejections in an amendment filed July 22, 2008, and these rejections are not repeated in the present Office Action. It is therefore assumed that the rejections under Sections 101 and 112 have been withdrawn. If this is not correct, it is respectfully requested that the examiner provide clarification in a future communication.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Rogers. Claim 1 recites a network device adapted to process a call between the network device and a first other network device. The network device comprises a user interface adapted to receive a user input requesting a call transfer to a second other network device and a call transfer function responsive to the user input to deliver call

transfer functionality. Upon receipt of the user input, the call transfer functionality of the network device a) initiates a connection from the network device to the second other network device and b) sends a first message to the first other network device containing a reference to the second other network device. As acknowledged in the Office Action, Wang does not show or suggest a network device having a call transfer function responsive to user input by ... sending a first message to a first other network device containing a reference to the second other network device. However, the Office Action asserts that it would have been obvious to modify Wang to satisfy this limitation based on the teachings of Rogers.

Rogers teaches a telecommunications system that controls a call transfer using a central network control system (NCS). When Roger's user-A is connected to user-B and to user-C, user-A can initiate a call transfer in order to connect user-B and user-C. This is done by sending "a request message 9 to NCS 20 requesting the set-up of communication between user-B 8 and user-C 14. A processor 24 accesses a database 22, located in NCS 20, to determine whether the requested transfer is allowed. NCS 20 then returns a response message 11 to switch A 6 responding to the request message 9 (column 3, lines 42-46)."

The interpretation of Rogers being used in the Office Action seems to require that Rogers' user-A correspond to the claimed "network device," that Rogers' user-B correspond to the "first other network device" and Rogers' user-C correspond to the claimed "second other network device." (If this is inaccurate, it is respectfully requested that the examiner clarify the interpretation being used in a further communication.) However, Rogers' user-A does not send a message to user-B containing a reference to

user-C as would be required under this interpretation. Instead, Rogers' user-A sends a message to the network control system 20, and the network control system connects user-B to user-C. Therefore, even if Wang and Rogers were somehow combined, the result would not be a network device that includes a call transfer function that sends a first message to a first other network device containing a reference to the second other network device as recited in claim 1. Claim 1 is submitted to be allowable over Wang in view of Rogers for at least this reason.

Furthermore, it is respectfully submitted that a proper reason for modifying Wang based on Rogers has not been provided. The proposed modification to Wang would change the principle of operation of Wang, and changing the principle of operation of a primary reference is never obvious. MPEP 2143.01. Wang transfers a call by sending various messages between Ethernet telephones as discussed at column 36, line 42 to column 37, line 6. Wang does not use a centralized network control system to handle a call transfer. Adding Rogers' centralized network control system to Wang for handling call transfers would therefore change the principle of operation of Wang and is therefore unobvious.

For the foregoing reasons, it is respectfully submitted that claim 1 patentably distinguishes over Wang in view of Rogers, and the withdrawal of the rejection of claim 1 based on Wang and Rogers is respectfully requested. If the rejection is not withdrawn, it is respectfully requested that the examiner identify 1) which elements of Rogers are believed to correspond to the claimed "network device," "first other network device" and "second other network device" and 2) what message a call transfer function of the network device sends to the first other network device that contains a reference to

the second other network device so that the basis for this rejection can be better understood.

Claims 2-8 and 13 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

Independent claims 14, 22, 32, 44, 51, 55, 56 and 57 were rejected under 35 U.S.C. 103(a) for the same reasons as claim 1. No further discussion of these claims is provided in the Office Action. While the limitations of these claims are different than those of claim 1, the arguments presented above in connection with claim 1 are applicable to the above-recited claims. Claims 14, 22, 32 44, 51, 55, 56 and 57 are therefore submitted to be allowable for at least the reasons provided above in connection with claim 1. The claims depending from claims 14, 22, 32 44, 51, 55, 56 and 57 are submitted to be allowable at least because of their dependency from allowable claims.

Independent claim 27 is rejected as being unpatentable over Wang in view of Rogers because "Wang in combination with Rogers disclose all the limitations of claim 27 as stated in claim 1's rejection above." However, claim 27 does not include the same limitations as claim 1 and does not include the limitation regarding the transmission of first and second messages discussed in the rejection of claim 1. Section 706.02(j) sets for the requirements for establishing a rejection based on obviousness. As provided by that section, the examiner "should set forth in the Office action: (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate, (B) the difference or differences in the claim over the applied reference(s), (C) the proposed

modification of the applied reference(s) necessary to arrive at the claimed subject matter, and (D) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.” None of these requirements have been satisfied in the present rejection of claim 27. A prima facie case of obviousness has therefore not been presented in connection with claim 27, and the allowance of claim 27 is respectfully requested.

### **CONCLUSION**

Each issue raised in the Office Action dated October 8, 2008, has been addressed, and it is believed that claims 1-57 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is respectfully requested. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact Scott Wakeman (Reg. No. 37,750) at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

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